

In the Senate of the United States,

October 11, 2004.

Resolved, That the bill from the House of Representatives (H.R. 4548) entitled “An Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “In-*
 3 *telligence Authorization Act for Fiscal Year 2005”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 5 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Incorporation of reporting requirements.

Sec. 106. Specific authorization of funds for intelligence or intelligence-related ac-
tivities for which fiscal year 2004 appropriations exceed
amounts authorized.

Sec. 107. Preparation and submittal of reports, reviews, studies, and plans relat-
ing to intelligence activities of Department of Defense and De-
partment of Energy.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Modification of authority to obligate and expend certain funds for intel-
ligence activities.

Sec. 304. Treatment as agent of a foreign power under the Foreign Intelligence
Surveillance Act of 1978 of non-United States persons who en-
gage in international terrorism without affiliation with inter-
national terrorist groups.

Sec. 305. Additional annual reporting requirements under the Foreign Intel-
ligence Surveillance Act of 1978.

Sec. 306. Intelligence assessment on sanctuaries for terrorists.

Sec. 307. Additional extension of deadline for final report of the national commis-
sion for the review of the research and development programs of
the United States intelligence community.

Sec. 308. Four-year extension of public interest declassification board.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Permanent extension of Central Intelligence Agency voluntary separa-
tion incentive program.

Sec. 402. Intelligence operations and cover enhancement authority.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

Sec. 501. Use of funds for counterdrug and counterterrorism activities for Colombia.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) *The Central Intelligence Agency.*

(2) *The Department of Defense.*

(3) *The Defense Intelligence Agency.*

(4) *The National Security Agency.*

(5) *The Department of the Army, the Department of the Navy, and the Department of the Air Force.*

(6) *The Department of State.*

(7) *The Department of the Treasury.*

(8) *The Department of Energy.*

(9) *The Department of Justice.*

(10) *The Federal Bureau of Investigation.*

(11) *The National Reconnaissance Office.*

(12) *The National Geospatial-Intelligence Agency.*

(13) *The Coast Guard.*

1 (14) *The Department of Homeland Security.*

2 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

3 (a) *SPECIFICATIONS OF AMOUNTS AND PERSONNEL*
 4 *CEILINGS.*—*The amounts authorized to be appropriated*
 5 *under section 101, and the authorized personnel ceilings as*
 6 *of September 30, 2005, for the conduct of the intelligence*
 7 *and intelligence-related activities of the elements listed in*
 8 *such section, are those specified in the classified Schedule*
 9 *of Authorizations prepared to accompany the conference re-*
 10 *port on the bill _____ of the One Hundred Eighth Congress.*

11 (b) *AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-*
 12 *THORIZATIONS.*—*The Schedule of Authorizations shall be*
 13 *made available to the Committees on Appropriations of the*
 14 *Senate and House of Representatives and to the President.*
 15 *The President shall provide for suitable distribution of the*
 16 *Schedule, or of appropriate portions of the Schedule, within*
 17 *the executive branch.*

18 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

19 (a) *AUTHORITY FOR ADJUSTMENTS.*—*With the ap-*
 20 *proval of the Director of the Office of Management and*
 21 *Budget, the Director of Central Intelligence may authorize*
 22 *employment of civilian personnel in excess of the number*
 23 *authorized for fiscal year 2005 under section 102 when the*
 24 *Director of Central Intelligence determines that such action*
 25 *is necessary to the performance of important intelligence*

1 *functions, except that the number of personnel employed in*
 2 *excess of the number authorized under such section may not,*
 3 *for any element of the intelligence community, exceed 2 per-*
 4 *cent of the number of civilian personnel authorized under*
 5 *such section for such element.*

6 (b) *NOTICE TO INTELLIGENCE COMMITTEES.—The Di-*
 7 *rector of Central Intelligence shall promptly notify the Se-*
 8 *lect Committee on Intelligence of the Senate and the Perma-*
 9 *nent Select Committee on Intelligence of the House of Rep-*
 10 *resentatives whenever the Director exercises the authority*
 11 *granted by this section.*

12 **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**
 13 **COUNT.**

14 (a) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 15 *authorized to be appropriated for the Intelligence Commu-*
 16 *nity Management Account of the Director of Central Intel-*
 17 *ligence for fiscal year 2005 the sum of \$342,995,000. Within*
 18 *such amount, funds identified in the classified Schedule of*
 19 *Authorizations referred to in section 102(a) for advanced*
 20 *research and development shall remain available until Sep-*
 21 *tember 30, 2006.*

22 (b) *AUTHORIZED PERSONNEL LEVELS.—The elements*
 23 *within the Intelligence Community Management Account of*
 24 *the Director of Central Intelligence are authorized 310 full-*
 25 *time personnel as of September 30, 2005. Personnel serving*

1 *in such elements may be permanent employees of the Intel-*
 2 *ligence Community Management Account or personnel de-*
 3 *tailed from other elements of the United States Government.*

4 *(c) CLASSIFIED AUTHORIZATIONS.—*

5 *(1) AUTHORIZATION OF APPROPRIATIONS.—In*
 6 *addition to amounts authorized to be appropriated*
 7 *for the Intelligence Community Management Account*
 8 *by subsection (a), there are also authorized to be ap-*
 9 *propriated for the Intelligence Community Manage-*
 10 *ment Account for fiscal year 2005 such additional*
 11 *amounts as are specified in the classified Schedule of*
 12 *Authorizations referred to in section 102(a). Such ad-*
 13 *ditional amounts for research and development shall*
 14 *remain available until September 30, 2006.*

15 *(2) AUTHORIZATION OF PERSONNEL.—In addi-*
 16 *tion to the personnel authorized by subsection (b) for*
 17 *elements of the Intelligence Community Management*
 18 *Account as of September 30, 2005, there are also au-*
 19 *thorized such additional personnel for such elements*
 20 *as of that date as are specified in the classified Sched-*
 21 *ule of Authorizations.*

22 *(d) REIMBURSEMENT.—Except as provided in section*
 23 *113 of the National Security Act of 1947 (50 U.S.C. 404h),*
 24 *during fiscal year 2005 any officer or employee of the*
 25 *United States or a member of the Armed Forces who is de-*

1 *tailed to the staff of the Intelligence Community Manage-*
 2 *ment Account from another element of the United States*
 3 *Government shall be detailed on a reimbursable basis, ex-*
 4 *cept that any such officer, employee, or member may be de-*
 5 *tailed on a nonreimbursable basis for a period of less than*
 6 *one year for the performance of temporary functions as re-*
 7 *quired by the Director of Central Intelligence.*

8 *(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

9 *(1) IN GENERAL.—Of the amount authorized to*
 10 *be appropriated in subsection (a), \$34,911,000 shall*
 11 *be available for the National Drug Intelligence Cen-*
 12 *ter. Within such amount, funds provided for research,*
 13 *development, testing, and evaluation purposes shall*
 14 *remain available until September 30, 2006, and funds*
 15 *provided for procurement purposes shall remain*
 16 *available until September 30, 2007.*

17 *(2) TRANSFER OF FUNDS.—The Director of Cen-*
 18 *tral Intelligence shall transfer to the Attorney General*
 19 *funds available for the National Drug Intelligence*
 20 *Center under paragraph (1). The Attorney General*
 21 *shall utilize funds so transferred for the activities of*
 22 *the National Drug Intelligence Center.*

23 *(3) LIMITATION.—Amounts available for the Na-*
 24 *tional Drug Intelligence Center may not be used in*
 25 *contravention of the provisions of section 103(d)(1) of*

1 *the National Security Act of 1947 (50 U.S.C. 403–*
 2 *3(d)(1)).*

3 (4) *AUTHORITY.—Notwithstanding any other*
 4 *provision of law, the Attorney General shall retain*
 5 *full authority over the operations of the National*
 6 *Drug Intelligence Center.*

7 **SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.**

8 (a) *IN GENERAL.—Each requirement to submit a re-*
 9 *port to the congressional intelligence committees that is in-*
 10 *cluded in the joint explanatory statement to accompany the*
 11 *conference report on the bill _____ of the One Hundred*
 12 *Eighth Congress, or in the classified annex to this Act, is*
 13 *hereby incorporated into this Act, and is hereby made a*
 14 *requirement in law.*

15 (b) *CONGRESSIONAL INTELLIGENCE COMMITTEES DE-*
 16 *FINED.—In this section, the term “congressional intelligence*
 17 *committees” means—*

18 (1) *the Select Committee on Intelligence of the*
 19 *Senate; and*

20 (2) *the Permanent Select Committee on Intel-*
 21 *ligence of the House of Representatives.*

1 **SEC. 106. SPECIFIC AUTHORIZATION OF FUNDS FOR INTEL-**
 2 **LIGENCE OR INTELLIGENCE-RELATED ACTIVI-**
 3 **TIES FOR WHICH FISCAL YEAR 2004 APPRO-**
 4 **PRIATIONS EXCEED AMOUNTS AUTHORIZED.**

5 *Funds appropriated for an intelligence or intelligence-*
 6 *related activity of the United States Government for fiscal*
 7 *year 2004 in excess of the amount specified for such activity*
 8 *in the classified Schedule of Authorizations prepared to ac-*
 9 *company the Intelligence Authorization Act for Fiscal Year*
 10 *2004 (Public Law 108–177; 117 Stat. 2599) shall be deemed*
 11 *to be specifically authorized by Congress for purposes of sec-*
 12 *tion 504(a)(3) of the National Security Act of 1947 (50*
 13 *U.S.C. 414(a)(3)). Such funds shall remain available until*
 14 *September 30, 2005.*

15 **SEC. 107. PREPARATION AND SUBMITTAL OF REPORTS, RE-**
 16 **VIEWS, STUDIES, AND PLANS RELATING TO**
 17 **INTELLIGENCE ACTIVITIES OF DEPARTMENT**
 18 **OF DEFENSE AND DEPARTMENT OF ENERGY.**

19 *(a) CONSULTATION IN PREPARATION.—(1) The Direc-*
 20 *tor of Central Intelligence shall ensure that any report, re-*
 21 *view, study, or plan required to be prepared or conducted*
 22 *by a provision of this Act, including a provision of the clas-*
 23 *sified Schedule of Authorizations referred to in section*
 24 *102(a) or the classified annex to this Act, that involves the*
 25 *intelligence or intelligence-related activities of the Depart-*
 26 *ment of Defense or the Department of Energy is prepared*

1 *or conducted in consultation with the Secretary of Defense*
2 *or the Secretary of Energy, as appropriate.*

3 (2) *The Secretary of Defense or the Secretary of En-*
4 *ergy may carry out any consultation required by this sub-*
5 *section through an official of the Department of Defense or*
6 *the Department of Energy, as the case may be, designated*
7 *by such Secretary for that purpose.*

8 (b) *SUBMITTAL.—Any report, review, study, or plan*
9 *referred to in subsection (a) shall be submitted, in addition*
10 *to any other committee of Congress specified for submittal*
11 *in the provision concerned, to the following committees of*
12 *Congress:*

13 (1) *The Committee on Armed Services, the Sub-*
14 *committee on Defense of the Committee on Appropria-*
15 *tions, and the Select Committee on Intelligence of the*
16 *Senate.*

17 (2) *The Committee on Armed Services, and the*
18 *Subcommittee on Defense of the Committee on Appro-*
19 *priations, and the Permanent Select Committee on*
20 *Intelligence of the House of Representatives.*

1 **TITLE II—CENTRAL INTEL-**
2 **LIGENCE AGENCY RETIRE-**
3 **MENT AND DISABILITY SYS-**
4 **TEM**

5 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

6 *There is authorized to be appropriated for the Central*
7 *Intelligence Agency Retirement and Disability Fund for fis-*
8 *cal year 2005 the sum of \$239,400,000.*

9 **TITLE III—GENERAL**
10 **PROVISIONS**

11 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**
12 **BENEFITS AUTHORIZED BY LAW.**

13 *Appropriations authorized by this Act for salary, pay,*
14 *retirement, and other benefits for Federal employees may*
15 *be increased by such additional or supplemental amounts*
16 *as may be necessary for increases in such compensation or*
17 *benefits authorized by law.*

18 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
19 **ACTIVITIES.**

20 *The authorization of appropriations by this Act shall*
21 *not be deemed to constitute authority for the conduct of any*
22 *intelligence activity which is not otherwise authorized by*
23 *the Constitution or the laws of the United States.*

1 **SEC. 303. MODIFICATION OF AUTHORITY TO OBLIGATE AND**
 2 **EXPEND CERTAIN FUNDS FOR INTELLIGENCE**
 3 **ACTIVITIES.**

4 *Section 504(a)(3) of the National Security Act of 1947*
 5 *(50 U.S.C. 414(a)(3)) is amended—*

6 *(1) in subparagraph (A), by inserting “and” at*
 7 *the end;*

8 *(2) by striking subparagraph (B); and*

9 *(3) by redesignating subparagraph (C) as sub-*
 10 *paragraph (B).*

11 **SEC. 304. TREATMENT AS AGENT OF A FOREIGN POWER**
 12 **UNDER THE FOREIGN INTELLIGENCE SUR-**
 13 **VEILLANCE ACT OF 1978 OF NON-UNITED**
 14 **STATES PERSONS WHO ENGAGE IN INTER-**
 15 **NATIONAL TERRORISM WITHOUT AFFILI-**
 16 **ATION WITH INTERNATIONAL TERRORIST**
 17 **GROUPS.**

18 *(a) IN GENERAL.—Section 101(b)(1) of the Foreign*
 19 *Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1))*
 20 *is amended by adding at the end the following new subpara-*
 21 *graph:*

22 *“(C) engages in international terrorism or*
 23 *activities in preparation therefor; or”.*

24 *(b) SUNSET.—The amendment made by subsection (a)*
 25 *shall be subject to the sunset provision in section 224 of*
 26 *the USA PATRIOT Act of 2001 (Public Law 107–56; 115*

1 *Stat. 295), including the exception provided in subsection*
 2 *(b) of such section 224.*

3 **SEC. 305. ADDITIONAL ANNUAL REPORTING REQUIRE-**
 4 **MENTS UNDER THE FOREIGN INTELLIGENCE**
 5 **SURVEILLANCE ACT OF 1978.**

6 *(a) ADDITIONAL REPORTING REQUIREMENTS.—The*
 7 *Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.*
 8 *1801 et seq.) is amended—*

9 *(1) by redesignating title VI as title VII;*

10 *(2) by redesignating section 601 as section 701;*

11 *and*

12 *(3) by inserting after title V the following new*
 13 *title VI:*

14 **“TITLE VI—REPORTING REQUIREMENT**

15 **“ANNUAL REPORT OF THE ATTORNEY GENERAL**

16 **“SEC. 601. (a) In addition to the reports required by**
 17 **sections 107, 108, 306, 406, and 502 in April each year,**
 18 **the Attorney General shall submit to the appropriate com-**
 19 **mittees of Congress each year a report setting forth with**
 20 **respect to the one-year period ending on the date of such**
 21 **report—**

22 **“(1) the aggregate number of non-United States**
 23 **persons targeted for orders issued under this Act, in-**
 24 **cluding a break-down of those targeted for—**

1 “(A) *electronic surveillance under section*
2 *105;*

3 “(B) *physical searches under section 304;*

4 “(C) *pen registers under section 402; and*

5 “(D) *access to records under section 501;*

6 “(2) *the number of individuals covered by an*
7 *order issued under this Act who were determined pur-*
8 *suant to activities authorized by this Act to have*
9 *acted wholly alone in the activities covered by such*
10 *order;*

11 “(3) *the number of times that the Attorney Gen-*
12 *eral has authorized that information obtained under*
13 *this Act may be used in a criminal proceeding or any*
14 *information derived therefrom may be used in a*
15 *criminal proceeding; and*

16 “(4) *in a manner consistent with the protection*
17 *of the national security of the United States—*

18 “(A) *the portions of the documents and ap-*
19 *plications filed with the courts established under*
20 *section 103 that include significant construction*
21 *or interpretation of the provisions of this Act,*
22 *not including the facts of any particular matter,*
23 *which may be redacted; and*

24 “(B) *the portions of the opinions and orders*
25 *of the courts established under section 103 that*

1 *include significant construction or interpretation*
 2 *of the provisions of this Act, not including the*
 3 *facts of any particular matter, which may be re-*
 4 *dacted.*

5 “(b) *The first report under this section shall be sub-*
 6 *mitted not later than six months after the date of the enact-*
 7 *ment of this Intelligence Authorization Act for Fiscal Year*
 8 *2005. Subsequent reports under this section shall be sub-*
 9 *mitted annually thereafter.*

10 “(c) *In this section, the term ‘appropriate committees*
 11 *of Congress’ means—*

12 “(1) *the Select Committee on Intelligence and the*
 13 *Committee on the Judiciary of the Senate; and*

14 “(2) *the Permanent Select Committee on Intel-*
 15 *ligence and the Committee on the Judiciary of the*
 16 *House of Representatives.”.*

17 (b) *CLERICAL AMENDMENT.—The table of contents for*
 18 *that Act is amended by striking the items relating to title*
 19 *VI and inserting the following new items:*

“TITLE VI—REPORTING REQUIREMENT

“Sec. 601. Annual report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“Sec. 701. Effective date.”.

1 **SEC. 306. INTELLIGENCE ASSESSMENT ON SANCTUARIES**
 2 **FOR TERRORISTS.**

3 (a) *ASSESSMENT REQUIRED.*—Not later than the date
 4 specified in subsection (b), the Director of Central Intel-
 5 ligence shall submit to Congress an intelligence assessment
 6 that identifies and describes each country or region that is
 7 a sanctuary for terrorists or terrorist organizations. The as-
 8 sessment shall be based on current all-source intelligence.

9 (b) *SUBMITTAL DATE.*—The date of the submittal of
 10 the intelligence assessment required by subsection (a) shall
 11 be the earlier of—

12 (1) the date that is six months after the date of
 13 the enactment of this Act; or

14 (2) June 1, 2005.

15 **SEC. 307. ADDITIONAL EXTENSION OF DEADLINE FOR**
 16 **FINAL REPORT OF THE NATIONAL COMMIS-**
 17 **SION FOR THE REVIEW OF THE RESEARCH**
 18 **AND DEVELOPMENT PROGRAMS OF THE**
 19 **UNITED STATES INTELLIGENCE COMMUNITY.**

20 Section 1007(a) of the Intelligence Authorization Act
 21 for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401
 22 note) is amended by striking “September 1, 2004” and in-
 23 serting “September 1, 2005”.

1 **SEC. 308. FOUR-YEAR EXTENSION OF PUBLIC INTEREST DE-**
 2 **CLASSIFICATION BOARD.**

3 *Section 710(b) of the Public Interest Declassification*
 4 *Act of 2000 (title VII of Public Law 106–567; 114 Stat.*
 5 *2856; 50 U.S.C. 435 note) is amended by striking “4 years”*
 6 *and inserting “8 years”.*

7 **TITLE IV—CENTRAL**
 8 **INTELLIGENCE AGENCY**

9 **SEC. 401. PERMANENT EXTENSION OF CENTRAL INTEL-**
 10 **LIGENCE AGENCY VOLUNTARY SEPARATION**
 11 **INCENTIVE PROGRAM.**

12 *(a) IN GENERAL.—Section 2 of the Central Intelligence*
 13 *Agency Voluntary Separation Pay Act (50 U.S.C. 403–4*
 14 *note) is amended—*

15 *(1) by striking subsection (f); and*

16 *(2) by redesignating subsections (g) and (h) as*
 17 *subsections (f) and (g), respectively.*

18 *(b) TERMINATION OF FUNDS REMITTANCE REQUIRE-*
 19 *MENT.—(1) Section 2 of such Act is further amended by*
 20 *striking subsection (i).*

21 *(2) Section 4(a)(2)(B)(ii) of the Federal Workforce Re-*
 22 *structuring Act of 1994 (5 U.S.C. 8331 note) is amended*
 23 *by striking “, or section 2 of the Central Intelligence Agency*
 24 *Voluntary Separation Pay Act (Public Law 103–36; 107*
 25 *Stat. 104)”.*

1 **SEC. 402. INTELLIGENCE OPERATIONS AND COVER EN-**
 2 **HANCEMENT AUTHORITY.**

3 *The Central Intelligence Agency Act of 1949 (50 U.S.C.*
 4 *403a et seq.) is amended by adding at the end the following:*

5 “**INTELLIGENCE OPERATIONS AND COVER ENHANCEMENT**
 6 **AUTHORITY**

7 “**SEC. 23. (a) DEFINITIONS.**—*In this section—*

8 “(1) *the term ‘designated employee’ means an*
 9 *employee designated by the Director under subsection*
 10 *(b); and*

11 “(2) *the term ‘Federal retirement system’ in-*
 12 *cludes the Central Intelligence Agency Retirement and*
 13 *Disability System, and the Federal Employees Retirement*
 14 *System (including the Thrift Savings Plan).*

15 “(b) **IN GENERAL.**—

16 “(1) **AUTHORITY.**—*Notwithstanding any other*
 17 *provision of law, the Director may exercise the au-*
 18 *thorities under this section in order to—*

19 “(A) *protect from unauthorized disclosure—*

20 “(i) *intelligence operations;*

21 “(ii) *the identities of undercover intel-*
 22 *ligence officers;*

23 “(iii) *intelligence source and methods;*

24 *or*

25 “(iv) *intelligence cover mechanisms; or*

1 “(B) *meet the special requirements of work*
2 *related to collection of foreign intelligence or*
3 *other authorized activities of the Agency.*

4 “(2) *DESIGNATION OF EMPLOYEES.—The Direc-*
5 *tor may designate any employee of the Agency who is*
6 *under nonofficial cover to be an employee to whom*
7 *this section applies. Such designation may be made*
8 *with respect to any or all authorities exercised under*
9 *this section.*

10 “(c) *COMPENSATION.—The Director may pay a des-*
11 *ignated employee salary, allowances, and other benefits in*
12 *an amount and in a manner consistent with the nonofficial*
13 *cover of that employee, without regard to any limitation*
14 *that is otherwise applicable to a Federal employee. A des-*
15 *ignated employee may accept, utilize, and, to the extent au-*
16 *thorized by regulations prescribed under subsection (i), re-*
17 *tain any salary, allowances, and other benefits provided*
18 *under this section.*

19 “(d) *RETIREMENT BENEFITS.—*

20 “(1) *IN GENERAL.—The Director may establish*
21 *and administer a nonofficial cover employee retire-*
22 *ment system for designated employees (and the*
23 *spouse, former spouses, and survivors of such des-*
24 *ignated employees). A designated employee may not*
25 *participate in the retirement system established under*

1 *this paragraph and another Federal retirement sys-*
 2 *tem at the same time.*

3 “(2) *CONVERSION TO OTHER FEDERAL RETIRE-*
 4 *MENT SYSTEM.*—

5 “(A) *IN GENERAL.*—A designated employee
 6 *participating in the retirement system estab-*
 7 *lished under paragraph (1) may convert to cov-*
 8 *erage under the Federal retirement system which*
 9 *would otherwise apply to that employee at any*
 10 *appropriate time determined by the Director (in-*
 11 *cluding at the time of separation of service by*
 12 *reason of retirement), if the Director determines*
 13 *that the employee’s participation in the retire-*
 14 *ment system established under this subsection is*
 15 *no longer necessary to protect from unauthorized*
 16 *disclosure—*

17 “(i) *intelligence operations;*

18 “(ii) *the identities of undercover intel-*
 19 *ligence officers;*

20 “(iii) *intelligence sources and methods;*

21 *or*

22 “(iv) *intelligence cover mechanisms.*

23 “(B) *CONVERSION TREATMENT.*—Upon a
 24 *conversion under this paragraph—*

1 “(i) all periods of service under the re-
2 tirement system established under this sub-
3 section shall be deemed periods of creditable
4 service under the applicable Federal retire-
5 ment system;

6 “(ii) the Director shall transmit an
7 amount for deposit in any applicable fund
8 of that Federal retirement system that—

9 “(I) is necessary to cover all em-
10 ployee and agency contributions
11 including—

12 “(aa) interest as determined
13 by the head of the agency admin-
14 istering the Federal retirement
15 system into which the employee is
16 converting; or

17 “(bb) in the case of an em-
18 ployee converting into the Federal
19 Employee’s Retirement System,
20 interest as determined under sec-
21 tion 8334(e) of title 5, United
22 States Code; and

23 “(II) ensures that such conversion
24 does not result in any unfunded liabil-
25 ity to that fund; and

1 “(iii) *in the case of a designated em-*
 2 *ployee who participated in an employee in-*
 3 *vestment retirement system established*
 4 *under paragraph (1) and is converted to*
 5 *coverage under subchapter III of chapter 84*
 6 *of title 5, United States Code, the Director*
 7 *may transmit any or all amounts of that*
 8 *designated employee in that employee in-*
 9 *vestment retirement system (or similar part*
 10 *of that retirement system) to the Thrift Sav-*
 11 *ings Fund.*

12 “(C) *TRANSMITTED AMOUNTS.—*

13 “(i) *IN GENERAL.—*Amounts described
 14 *under subparagraph (B)(ii) shall be paid*
 15 *from the fund or appropriation used to pay*
 16 *the designated employee.*

17 “(ii) *OFFSET.—*The Director may use
 18 *amounts contributed by the designated em-*
 19 *ployee to a retirement system established*
 20 *under paragraph (1) to offset amounts paid*
 21 *under clause (i).*

22 “(D) *RECORDS.—*The Director shall trans-
 23 *mit all necessary records relating to a designated*
 24 *employee who converts to a Federal retirement*
 25 *system under this paragraph (including records*

1 *relating to periods of service which are deemed*
 2 *to be periods of creditable service under subpara-*
 3 *graph (B)) to the head of the agency admin-*
 4 *istering that Federal retirement system.*

5 “(e) *HEALTH INSURANCE BENEFITS.*—

6 “(1) *IN GENERAL.*—*The Director may establish*
 7 *and administer a nonofficial cover employee health*
 8 *insurance program for designated employees (and the*
 9 *family of such designated employees). A designated*
 10 *employee may not participate in the health insurance*
 11 *program established under this paragraph and the*
 12 *program under chapter 89 of title 5, United States*
 13 *Code, at the same time.*

14 “(2) *CONVERSION TO FEDERAL EMPLOYEES*
 15 *HEALTH BENEFITS PROGRAM.*—

16 “(A) *IN GENERAL.*—*A designated employee*
 17 *participating in the health insurance program*
 18 *established under paragraph (1) may convert to*
 19 *coverage under the program under chapter 89 of*
 20 *title 5, United States Code, at any appropriate*
 21 *time determined by the Director (including at*
 22 *the time of separation of service by reason of re-*
 23 *irement), if the Director determines that the em-*
 24 *ployee’s participation in the health insurance*
 25 *program established under this subsection is no*

1 *longer necessary to protect from unauthorized*
 2 *disclosure—*

3 “(i) *intelligence operations;*

4 “(ii) *the identities of undercover intel-*
 5 *ligence officers;*

6 “(iii) *intelligence sources and methods;*

7 *or*

8 “(iv) *intelligence cover mechanisms.*

9 “(B) *CONVERSION TREATMENT.—Upon a*
 10 *conversion under this paragraph—*

11 “(i) *the employee (and family, if ap-*
 12 *plicable) shall be entitled to immediate en-*
 13 *rollment and coverage under chapter 89 of*
 14 *title 5, United States Code;*

15 “(ii) *any requirement of prior enroll-*
 16 *ment in a health benefits plan under chap-*
 17 *ter 89 of that title for continuation of cov-*
 18 *erage purposes shall not apply;*

19 “(iii) *the employee shall be deemed to*
 20 *have had coverage under chapter 89 of that*
 21 *title from the first opportunity to enroll for*
 22 *purposes of continuing coverage as an an-*
 23 *nuitant; and*

24 “(iv) *the Director shall transmit an*
 25 *amount for deposit in the Employees Health*

1 *Benefits Fund that is necessary to cover*
 2 *any costs of such conversion.*

3 “(C) TRANSMITTED AMOUNTS.—*Any*
 4 *amount described under subparagraph (B)(iv)*
 5 *shall be paid from the fund or appropriation*
 6 *used to pay the designated employee.*

7 “(f) *LIFE INSURANCE BENEFITS.*—

8 “(1) *IN GENERAL.*—*The Director may establish*
 9 *and administer a nonofficial cover employee life in-*
 10 *surance program for designated employees (and the*
 11 *family of such designated employees). A designated*
 12 *employee may not participate in the life insurance*
 13 *program established under this paragraph and the*
 14 *program under chapter 87 of title 5, United States*
 15 *Code, at the same time.*

16 “(2) *CONVERSION TO FEDERAL EMPLOYEES*
 17 *GROUP LIFE INSURANCE PROGRAM.*—

18 “(A) *IN GENERAL.*—*A designated employee*
 19 *participating in the life insurance program es-*
 20 *tablished under paragraph (1) may convert to*
 21 *coverage under the program under chapter 87 of*
 22 *title 5, United States Code, at any appropriate*
 23 *time determined by the Director (including at*
 24 *the time of separation of service by reason of re-*
 25 *tirement), if the Director determines that the em-*

1 *ployee’s participation in the life insurance pro-*
 2 *gram established under this subsection is no*
 3 *longer necessary to protect from unauthorized*
 4 *disclosure—*

5 *“(i) intelligence operations;*

6 *“(ii) the identities of undercover intel-*
 7 *ligence officers;*

8 *“(iii) intelligence sources and methods;*

9 *or*

10 *“(iv) intelligence cover mechanisms.*

11 *“(B) CONVERSION TREATMENT.—Upon a*
 12 *conversion under this paragraph—*

13 *“(i) the employee (and family, if ap-*
 14 *plicable) shall be entitled to immediate cov-*
 15 *erage under chapter 87 of title 5, United*
 16 *States Code;*

17 *“(ii) any requirement of prior enroll-*
 18 *ment in a life insurance program under*
 19 *chapter 87 of that title for continuation of*
 20 *coverage purposes shall not apply;*

21 *“(iii) the employee shall be deemed to*
 22 *have had coverage under chapter 87 of that*
 23 *title for the full period of service during*
 24 *which the employee would have been entitled*

1 to be insured for purposes of continuing
2 coverage as an annuitant; and

3 “(iv) the Director shall transmit an
4 amount for deposit in the Employees Life
5 Insurance Fund that is necessary to cover
6 any costs of such conversion.

7 “(C) TRANSMITTED AMOUNTS.—Any
8 amount described under subparagraph (B)(iv)
9 shall be paid from the fund or appropriation
10 used to pay the designated employee.

11 “(g) EXEMPTION FROM CERTAIN REQUIREMENTS.—
12 The Director may exempt a designated employee from man-
13 datory compliance with any Federal regulation, rule,
14 standardized administrative policy, process, or procedure
15 that the Director determines—

16 “(1) would be inconsistent with the nonofficial
17 cover of that employee; and

18 “(2) could expose that employee to detection as
19 a Federal employee.

20 “(h) TAXATION AND SOCIAL SECURITY.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of law, a designated employee—

23 “(A) shall file a Federal or State tax return
24 as if that employee is not a Federal employee
25 and may claim and receive the benefit of any ex-

1 *clusion, deduction, tax credit, or other tax treat-*
 2 *ment that would otherwise apply if that em-*
 3 *ployee was not a Federal employee, if the Direc-*
 4 *tor determines that taking any action under this*
 5 *paragraph is necessary to—*

6 *“(i) protect from unauthorized*
 7 *disclosure—*

8 *“(I) intelligence operations;*

9 *“(II) the identities of undercover*
 10 *intelligence officers;*

11 *“(III) intelligence source and*
 12 *methods; or*

13 *“(IV) intelligence cover mecha-*
 14 *nisms; and*

15 *“(ii) meet the special requirements of*
 16 *work related to collection of foreign intel-*
 17 *ligence or other authorized activities of the*
 18 *Agency; and*

19 *“(B) shall receive social security benefits*
 20 *based on the social security contributions made.*

21 *“(2) IRS REVIEW.—The Director shall establish*
 22 *procedures to carry out this subsection. The proce-*
 23 *dures shall be subject to periodic review by the Inter-*
 24 *nal Revenue Service.*

1 “(i) *REGULATIONS.*—*The Director shall prescribe reg-*
 2 *ulations to carry out this section. The regulations shall en-*
 3 *sure that the combination of salary, allowances, and bene-*
 4 *fits that an employee designated under this section may re-*
 5 *tain does not significantly exceed, except to the extent deter-*
 6 *mined by the Director to be necessary to exercise the author-*
 7 *ity in subsection (b), the combination of salary, allowances,*
 8 *and benefits otherwise received by Federal employees not*
 9 *designated under this section.*

10 “(j) *FINALITY OF DECISIONS.*—*Any determinations*
 11 *authorized by this section made by the Director or the Di-*
 12 *rector’s designee shall be final and conclusive and shall not*
 13 *be subject to review by any court.*

14 “(k) *SUBSEQUENTLY ENACTED LAWS.*—*No law en-*
 15 *acted after the effective date of this section shall affect the*
 16 *authorities and provisions of this section unless such law*
 17 *specifically refers to this section.”.*

18 ***TITLE V—DEPARTMENT OF DE-***
 19 ***FENSE INTELLIGENCE MAT-***
 20 ***TERS***

21 ***SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND***
 22 ***COUNTERTERRORISM ACTIVITIES FOR CO-***
 23 ***LOMBIA.***

24 “(a) *AUTHORITY.*—*Funds designated for intelligence or*
 25 *intelligence-related purposes for assistance to the Govern-*

1 *ment of Colombia for counterdrug activities for fiscal year*
 2 *2005, and any unobligated funds available to any element*
 3 *of the intelligence community for such activities for a prior*
 4 *fiscal year, shall be available—*

5 *(1) to support a unified campaign by the Gov-*
 6 *ernment of Colombia against narcotics trafficking*
 7 *and against activities by organizations designated as*
 8 *terrorist organizations (such as the Revolutionary*
 9 *Armed Forces of Colombia (FARC), the National Lib-*
 10 *eration Army (ELN), and the United Self-Defense*
 11 *Forces of Colombia (AUC)); and*

12 *(2) to take actions to protect human health and*
 13 *welfare in emergency circumstances, including under-*
 14 *taking rescue operations.*

15 *(b) APPLICABILITY OF CERTAIN LAWS AND LIMITA-*
 16 *TIONS.—The use of funds pursuant to the authority in sub-*
 17 *section (a) shall be subject to the following:*

18 *(1) Sections 556, 567, and 568 of the Foreign*
 19 *Operations, Export Financing, and Related Programs*
 20 *Appropriations Act, 2002 (Public Law 107–115; 115*
 21 *Stat. 2160, 2165, and 2166).*

22 *(2) Section 8077 of the Department of Defense*
 23 *Appropriations Act, 2004 (Public Law 108–87; 117*
 24 *Stat. 1090).*

1 (3) *The numerical limitations on the number of*
 2 *United States military personnel and United States*
 3 *individual civilian contractors in section 3204(b)(1)*
 4 *of the Emergency Supplemental Act, 2000 (division B*
 5 *of Public Law 106–246; 114 Stat. 575), as amended*
 6 *by the Foreign Operations, Export Financing, and*
 7 *Related Programs Appropriations Act, 2002 (115*
 8 *Stat. 2131).*

9 (c) *LIMITATION ON PARTICIPATION OF UNITED*
 10 *STATES PERSONNEL.—No United States Armed Forces per-*
 11 *sonnel or United States civilian contractor employed by the*
 12 *United States Armed Forces will participate in any combat*
 13 *operation in connection with assistance made available*
 14 *under this section, except for the purpose of acting in self*
 15 *defense or during the course of search and rescue operations*
 16 *for United States citizens.*

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

H. R. 4548

AMENDMENT